

**Director's Office**

PO Box 110017  
Juneau, Alaska 99811-0017  
907.465.4611 907.465.3203 FAX  
elections@gov.state.ak.us

**Regional Offices**

Anchorage 907.522.8683  
Fairbanks 907.451.2835  
Juneau 907.465.3021  
Nome 907.443.5285

**STATE OF ALASKA**  
**Division of Elections**  
**Office of the Lieutenant Governor**

**ADMINISTRATIVE COMPLAINT FILING PROCESS**

Any person who believes that there is a violation of any provision of Title III of the Help America Vote Act of 2002, 42 U.S.C. §§ 15481-15485, including a violation that has occurred, is occurring, or is about to occur, may file a complaint.

Title III of the Help America Vote Act is available for viewing at the following web site:  
<http://www.gov.state.ak.us/ltgov/elections/hava.htm>

The administrative complaint procedure is set out in Alaska Administrative Code, 6 AAC 25.400 - 6 AAC 25.490.

The Alaska Administrative code is available for viewing at the following web site:  
<http://old-www.legis.state.ak.us>

**HOW TO FILE A COMPLAINT**

A complaint must be in writing. An Alaska Divisions of Elections Administrative Complaint form is available online at <http://www.elections.state.ak.us/>. Persons may also contact any of our Regional Offices to get a form, or call our statewide toll-free administrative complaint line: 1-888-465-5857.

The complaint must be:

- a) signed by the complainant
- b) notarized and sworn under oath by the complainant
- c) and contain the following:
  - (1) full name of the complainant;
  - (2) mailing address of the complainant;
  - (3) each provision of 42 U.S.C. 15481 - 15485 for which a violation is claimed;
  - (4) and a description of the facts constituting the claimed violation.

The complaint must set out a clear and concise description of the claimed violation that is sufficiently detailed to apprise both the respondent (an election official whose actions are asserted), in a complaint under 6 AAC 25.400 - 6 AAC 25.490, to be in violation of 42 U.S.C. 15481 – 15485) and the director of the claimed violation.

## **WHERE TO FILE A COMPLAINT**

The original complaint must be filed with the Director and mailed to:

Division of Elections  
Director's Office  
P.O. Box 110017  
Juneau, Alaska  
99811-0017

### **A written complaint must be filed with the director, along with:**

1. adequate proof of mailing or delivery of a copy of the complaint to each respondent; or
2. a request for mailing or delivery by the Director of the Division of Elections to each respondent.

### **A complaint must be filed within 60 days after the:**

1. occurrence of the actions or events that form the basis for the complaint, including any actions or events that form the basis for the complainant's belief that a violation is about to occur; or
2. complainant knew or, with the exercise of reasonable diligence, should have known of actions or events described in (1) of this subsection.

### **The Director will examine each complaint, and will reject it for filing if:**

1. it is not signed and notarized under oath;
2. it does not identify the complainant or include an adequate mailing address;
3. it does not, on its face, allege a violation of 15 U.S.C. 15481 - 15485 with regard to a federal election; or
4. more than 90 days have elapsed since the final certification of the federal election at issue.

You may contact any of our State of Alaska Election Offices for further information:

#### **Director's Office**

PO Box 110017  
Juneau, Alaska 99811-0017  
907.465.4611 phone  
907.465.3203 FAX

#### **Regional Offices**

Anchorage 907.522.8683  
Fairbanks 907.451.2835  
Juneau 907.465.3021  
Nome 907.443.5285

**Call our toll-free phone number: 1-888-465-5857**

**TTY call toll-free 1-888-622-3020**

Director's Office  
PO Box 110017  
Juneau, Alaska 99811-0017  
Phone: 907-465-4611  
Fax: 907-465-3203



STATE OF ALASKA  
Division of Elections  
Office of the Lieutenant Governor

For Office Use Only  
Date received in Director's Office:

Complaint #

## **ADMINISTRATIVE COMPLAINT FORM**

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This form may be used by any person alleging a violation of Title III of the Help America Vote Act of 2002, 42 U.S.C. § 15481-15485 that has occurred, is occurring, or is about to occur.

### **PLEASE CLEARLY PRINT OR TYPE ALL INFORMATION**

#### **Complainant** (person alleging violation of Title III)

Name of Complainant: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Daytime Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

#### **Respondent(s)** (person(s) alleged in claim to have committed violation of Title III)

Name of Respondent: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Daytime Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

Community name and precinct location of alleged violation(s): \_\_\_\_\_

Polling place location of alleged violation(s): \_\_\_\_\_

Date(s) of alleged violation(s): \_\_\_\_\_

Please explain the basis for your complaint, including each provision of 42 U.S.C. § 15481-15485 in which a violation is being alleged. Include names and addresses of any witnesses to alleged violation(s). Please attach separate sheet(s).

**ADMINISTRATIVE COMPLAINT FORM**

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State in your own words the detailed facts that form the basis of your complaint, including names of any relevant person(s). In your narrative explanation, please include specific dates, times, as well as any reasons you believe the alleged violation(s) were knowingly committed by the person(s) against whom this complaint is brought. Please attach separate sheet(s).

Would you like to request a hearing on the record? ☐ Yes ☐ No

I have mailed or delivered a copy to named respondent(s) in complaint: ☐ Yes ☐ No

**OR**

I request the Director of Elections to mail or deliver a copy to each named respondent in complaint:

☐ Yes ☐ No

**State of Alaska**

City: \_\_\_\_\_

I, the undersigned, under penalty of perjury, do swear or affirm that the information contained in this complaint is true and correct to the best of my knowledge:

\_\_\_\_\_  
Printed Name of Complainant

\_\_\_\_\_  
Signature of Complainant

SUBSCRIBED AND SWORN TO before me on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public in and for the

NOTARY SEAL

My commission expires: \_\_\_\_\_

**Mail the original signed and notarized Administrative Complaint to:**

**Director  
Division of Elections  
PO Box 110017  
Juneau, Alaska 99811-0017**

**NOTICE:** This complaint is not confidential, and once filed with the Director's Office, shall be treated as public record.

## Article 2

### Administrative Complaint Procedure for Violations of the Help America Vote Act of 2002

#### Section

- 400. Purpose and applicability.
- 410. Who may file.
- 420. Form of complaint.
- 430. Place and time for filing; copy for Respondent.
- 440. Processing of complaint.
- 450. Hearing.
- 460. Final determination.
- 470. Alternative dispute resolution through a hearing officer.
- 490. Definitions.

**6 AAC 25.400. Purpose and applicability** (a) The purpose of 6 AAC 25.400 - 6 AAC 25.490 is to provide a uniform, nondiscriminatory procedure to the resolution of any complaint alleging a violation of 42 U.S.C. 15481 - 15485 (title III of the Help America Vote Act of 2002), including a violation that has occurred, is occurring, or is about to occur.

(b) The procedures set out in 6 AAC 25.400 - 6 AAC 25.490 do not apply to an election recount under AS 15.20.430 - 15.20.530, or to an election contest under AS 15.20.540 - 15.20.560. A complainant who wishes to challenge the validity of a primary, general, or special election, or to determine the validity of a ballot or vote must seek relief as otherwise provided by law. Eff. 8/29/2003, Register 167

**Authority:** AS 15.05.010

**6 AAC 25.410. Who may file** A person who believes that a violation of 42 U.S.C. 15481 - 15485 has occurred, is occurring, or is about to occur may file a complaint. Eff. 8/29/2003, Register 167

**Authority:** AS 15.15.010

**6 AAC 25.420. Form of complaint** (a) A complaint must be in writing. The complaint must contain the following information, in a statement that is notarized, signed by the complainant, and sworn under oath by the complainant:

- (1) the name of the complainant;
  - (2) the mailing address of the complainant;
  - (3) each provision of 42 U.S.C. 15481 - 15485 for which a violation is claimed;
  - (4) a description of the facts constituting the claimed violation.
- (b) The complaint must set out a clear and concise description of the claimed violation that is sufficiently detailed to apprise both the respondent and the director of the claimed violation.

(c) The complainant may file a complaint using a form provided by the division, or using another form that satisfies the requirements of (a) - (b) of this section. Eff. 8/29/2003, Register 167

**Authority:** AS 15.15.010

**Editor's note:** A copy of 42 U.S.C. 15481 - 15485, and a complaint form as described in 6 AAC 25.410(b), may be obtained from an office of the Division of Elections, or by requesting the items from the Division of Elections, P.O. Box 110017, Juneau AK 99811-0017, telephone (907) 465-4611, fax (907) 465-3203, TTY (907) 465-3020. A complaint form may also be printed or downloaded from the Division of Elections Internet web site, [www.elections.state.ak.us](http://www.elections.state.ak.us).

**6 AAC 25.430. Place and time for filing; copy for respondent.** (a) A complaint must be filed with the director, along with

- (1) adequate proof of mailing or delivery of a copy of the complaint to each respondent; or
- (2) a request for mailing or delivery under (c) of this section.

(b) A complaint must be filed within 60 days after the (1) occurrence of the actions or events that form the basis for the complaint, including any actions or events that form the basis for the complainant's belief that a violation is about to occur; or

(2) complainant knew or, with the exercise of reasonable diligence, should have known of actions or events described in (1) of this subsection.

(c) The complainant must mail or deliver a copy of the complaint to each respondent, or request that the director mail or deliver a copy to each respondent.

(d) The director will examine each complaint, and will reject it for filing if

- (1) it is not signed and notarized under oath;
- (2) it does not identify the complainant or include an adequate mailing address;
- (3) it does not, on its face, allege a violation of 15 U.S.C. 15481 - 15485 with regard to a federal election; or
- (4) more than 90 days have elapsed since the final certification of the federal election at issue. Eff. 8/29/2003, Register 167

**Authority:** AS 15.15.010

**6 AAC 25.440. Processing of complaint** (a) To review a complaint that is filed without a request for hearing under 6 AAC 25.450(a), or to hear a complaint for which a hearing has been requested, the director will, if the director has not been directly involved in the actions or events that are the subject of the complaint,

- (1) review or hear the complaint personally, and make a final determination on the complaint;
- (2) designate an employee of the division to review or hear the complaint, and to prepare a proposed determination for the director's consideration; or

(3) appoint a hearing officer from outside the division to review or hear the complaint, and to prepare a proposed determination for the director's consideration.

(b) A designee of the director or hearing officer under (a) of this section may not be, and may not have been, directly involved in the actions or events that are the subject of the complaint, and may not directly supervise or be directly supervised by any respondent.

(c) If the director has been directly involved in the actions or events that are the subject of the complaint, the director will refer the complaint, for resolution under 6 AAC 25.400 - 6 AAC 25.490, to the director of the office of management and budget within the office of the governor, or to a member of office of management and budget designated by the director of the office of management and budget.

(d) The director, director's designee, or hearing officer may consolidate complaints if they relate to the same actions or events, or if they raise common questions of law or fact.

(e) The director will, or the director's designee or a hearing officer shall, allow a complainant to proceed with the assistance of an English language or American Sign Language interpreter if the complainant is unable to proceed without assistance of an interpreter. A complainant who needs an interpreter is responsible for securing and paying for the services of the interpreter, except to the extent that federal law requires that the state be responsible for payment for interpreter services.

(f) The director will, or the director's designee or a hearing officer shall, in coordination with the parties, establish a schedule under which the complainant and respondent may file written submissions concerning the complaint and under which the complaint will be finally determined.

(g) The director will, or the director's designee or a hearing officer shall, compile and maintain an official record in connection with each complaint under 6 AAC 25.400 - 6 AAC 25.490, including the following materials:

(1) a copy of the complaint, including any amendments made with the permission of the director;

(2) a copy of any written submission by the complainant;

(3) a copy of any written response by any respondent or other interested person;

(4) a written report of any investigation conducted by employees of the division; those employees may not be, and may not have been, directly involved in the actions or events that are the subject of the complaint, and may not directly supervise or be directly supervised by any respondent;

(5) copies of all notices and correspondence to or from the director in connection with the complaint;

(6) originals or copies of any tangible evidence produced at any hearing conducted under 6 AAC 25.450;

(7) the original tape or electronic recording produced at any hearing conducted under 6 AAC 25.450, and a

copy of any transcript obtained or filed, subject to 6 AAC 25.450(f), for inclusion in the record; and

(8) a copy of any final determination made under 6 AAC 25.460 or 6 AAC 25.470. Eff. 8/29/2003, Register 167

**Authority:** AS 15.15.010

**6 AAC 25.450. Hearing** (a) At the request of the complainant, a hearing on the record will be conducted.

(b) The hearing will be conducted no later than 30 days after the director receives the complaint. At least 10 working days before the date of the hearing, the division will give notice of the date, time, and place of the hearing

(1) by mail, to the complainant, each named respondent, and any other interested person who has asked in writing to be advised of the hearing;

(2) on the division's Internet web site; and

(3) by posting in a prominent place, available to the general public, at the offices of the division.

(c) The complainant, any respondent, or any other interested person may appear at the hearing and testify or present tangible evidence in connection with the complaint. Each witness must be sworn. An interested person who is unable to appear at the hearing in person may present testimony by telephone or through a written statement, subject to the requirements of this subsection. The time for and content of testimony may be limited to ensure that all interested participants are able to present their views, to exclude irrelevant or repetitious testimony, and to ensure compliance with the time limits under 6 AAC 25.460 - 6 AAC 25.470 for a final determination. The hearing may be recessed and reconvened at a later date, time, and place announced publicly at the hearing.

(d) An attorney may represent a complainant or other person who testifies or presents evidence at the hearing.

(e) Cross-examination will be allowed, and a person may testify or present evidence to rebut any other testimony or evidence. The time for and content of cross-examination and rebuttal testimony may be limited to ensure that all interested participants are able to present their views, to exclude irrelevant or repetitious testimony, and to ensure compliance with the time limits under 6 AAC 25.460 - 6 AAC 25.470 for a final determination.

(f) At its own expense, the division will record the proceedings by tape or other electronic means. At its own expense, the division or any party may arrange to have a transcript prepared of the recording. Any transcript that the division obtains is part of the official record. If a party arranges for preparation of a transcript, the party must file it in order for the transcript to be included as part of the official record. A party or interested person may examine a transcript that is included as part of the official record.

(g) A party may file a written brief or memorandum within five working days after the conclusion of the hearing. Responsive or reply memoranda will not be



accepted, except with specific authorization as the director, director's designee, or hearing officer determines necessary to make a determination on the complaint. Eff. 8/29/2003, Register 167

**Authority:** AS 15.15.010

**6 AAC 25.460. Final determination** (a) If the complainant has not requested a hearing under 6 AAC 25.450, the director will review the record and determine whether, under a preponderance of the evidence standard, a violation of 42 U.S.C. 15481 - 15485 has been established. If a division employee has been designated or hearing officer has been appointed under 6 AAC 25.440(a) (2) or (a)(3), that person shall review the record and prepare a proposed determination as to whether a violation of 42 U.S.C. 15481 - 15485 has been established, based upon a preponderance of the evidence standard. After review of the record, the director will adopt the proposed determination as the final determination, adopt the proposed determination with modifications as the final determination, or reject the proposed determination.

(b) After any hearing conducted under 6 AAC 25.450, and after the submission under 6 AAC 25.450(g) of any written briefs or memoranda, the director will determine under a preponderance of the evidence standard whether a violation of 42 U.S.C. 15481 - 15485 has been established. If a division employee has been designated or hearing officer has been appointed under 6 AAC 25.440(a) (2) or (a)(3), that person shall review the record and prepare a proposed determination as to whether a violation of 42 U.S.C. 15481 - 15485 has been established, based upon a preponderance of the evidence standard. After review of the record, the director will adopt the proposed determination as the final determination, adopt the proposed determination with modifications as the final determination, or reject the proposed determination.

(c) For any violation established under this section, the director will provide a remedy directed to the improvement of procedures that are subject to 42 U.S.C. 15481 - 15485. As part of the remedy, the director may include an order requiring any respondent to take specified action, or prohibiting any respondent from taking specified action, with respect to a past or future election. However, the director will not award money damages, attorney fees, or costs as part of a remedy.

(d) If the complaint is not timely, or if the director determines that a violation has not occurred or that the evidence is insufficient to establish a violation, the director will dismiss the complaint.

(e) The director will explain in a written decision the reasons for a determination and for any remedy selected.

(f) Except as specified in 6 AAC 25.470, a final determination under (a) or (b) of this section will be issued within 90 days after the complaint was filed, unless the complainant consents in writing to an

extension. However, if a hearing officer is appointed under 6 AAC 25.440(a) (3), the hearing officer shall present a proposed determination to the director within 120 days after the complaint was filed, and the director will issue a final determination within 150 days after the complaint was filed. The final determination will be mailed to the complainant, each respondent, and any other interested person who has asked in writing to be advised of the final determination. It will also be posted on the division's Internet web site and made available on request to any interested person.

(g) Except as described in (f) of this section, if a final determination under (a) or (b) of this section is not or cannot be made within 90 days after the complaint was filed, or within any extension to which the complainant consents, the complaint will be referred for final resolution under 6 AAC 25.470. The record compiled under 6 AAC 25.440(c) will be made available for use under 6 AAC 25.470.

(h) The final determination under (a) or (b) of this section constitutes the final decision of an administrative agency under AS 22.10.020 (d), for which review may be sought under the Alaska Rules of Appellate Procedure. Eff. 8/29/2003, Register 167

**Authority:** AS 15.15.010

**6 AAC 25.470. Alternative dispute resolution through a hearing officer** (a) If a hearing officer has not already been appointed under 6 AAC 25.440(a) (3), and if the director has not made a final determination within 90 days after the complaint was filed, or within any extension to which the complainant consents under 6 AAC 25.460(f), the director will appoint a hearing officer from outside the division to review or hear the complaint, and to prepare a proposed determination for the director's consideration. The hearing officer may not be, and may not have been, directly involved in the actions or events that are the subject of the complaint.

(b) The hearing officer shall review the record compiled in connection with the complaint, including the tape or electronic recording of any hearing, any transcript of a hearing, and any briefs or memoranda. As necessary to prepare a proposed determination, the hearing officer may request that the parties present additional briefs or memoranda.

(c) After review of the record and any additional briefs or memoranda requested under (b) of this section, the hearing officer shall prepare a proposed determination as to whether a violation of 42 U.S.C. 15481 - 15485 has been established, based upon a preponderance of the evidence standard. The hearing officer shall present the proposed determination to the director within 120 days after the complaint was filed. After review of the record, the director will adopt the proposed determination as the final determination, adopt the proposed determination with modifications as the final determination, or reject the proposed determination. The director will issue a final determination within 150 days after the complaint was filed. The final

determination will be mailed to the complainant, each respondent, and any other interested person who has asked in writing to be advised of the final determination. It will also be posted on the division's Internet web site and made available on request to any interested person.

(d) The final determination under (c) of this section constitutes the final decision of an administrative agency under AS 22.10.020 (d), for which review may be sought under the Alaska Rules of Appellate Procedure. Eff. 8/29/2003, Register 167

**Authority:** AS 15.15.010

#### **6 AAC 25.490. Definitions**

In 6 AAC 25.400 - 6 AAC 25.490, unless the context requires otherwise,

(1) "complainant" means a person who files a complaint with the director under 6 AAC 25.400 - 6 AAC 25.490;

(2) "respondent" means an election official whose actions are asserted, in a complaint under 6 AAC 25.400 - 6 AAC 25.490, to be in violation of 42 U.S.C. 15481 - 15485;

(3) "working day" means a day other than Saturday, Sunday, or a state holiday. Eff. 8/29/2003, Register 167

**Authority:** AS 15.15.010